SWEETWATER SPRINGS WATER DISTRICT

TO: Board of Directors **AGENDA NO. V-B**

FROM: Steve Mack, General Manager

Meeting Date: August 7, 2014

SUBJECT: USDA BOND REFINANCING ISSUES

RECOMMENDED ACTION: Receive a report on the status of the United States Department of Agriculture (USDA) bond refinancing issues and provide direction to staff.

FISCAL IMPACT: Unknown

DISCUSSION:

We have still heard nothing formal from USDA. Nicki Tallman did receive a voicemail on July 14th and transcribed it as follows:

"Hi Nicki, this is Anita Lopez with USDA Rural Development. And, I do have an update for you. I was able to speak to the administrator regarding Sweetwater Springs. He did state that per law we would have to apply that partial payoff towards the back of the loan in accordance with the COP as well as our regulations. And that would be for years, what I've looked at, is 2032 through 2043 less about $3,000 on the 2032. He did say that he was willing to obtain a waiver and spread the remaining principal over the life of the loan, so that way it would reduce the amount of principal due from now until the end. So, give me a call, it's around 3:00 of course it's on a Friday. I will be here all next week and my number is 530-792-5822. Thank you, Nicki."

This is not good news – apparently USDA thinks they can do what they want and we just have to bear it. After getting this news I contacted Congressman Huffman's office on July 17 and I have forwarded a timeline to Elise Bauer of Congressman Huffman's office. Perhaps they can help us. We are in a situation where USDA is planning on taking our August payment but we don't know what it is, and we understand that it's not what they agreed to one year ago.

We don't have the option of not paying them. Apparently USDA has the authority to take whatever they want from County of Sonoma accounts. If we don't have money in our accounts they will take funds from other County accounts (according to County staff; this is not the first time this general issue has come up for them).

I sent Ms. Bauer the following timeline which I believe shows the pertinent actions and dates:

Sweetwater Springs Water District undertook refinancing its USDA debt over a year ago to develop funds for needed capital projects. Interest rates were at historic lows and the District could develop substantial

annual debt payment savings by refinancing existing USDA debt. The District is in a disadvantage community and water rate increases are difficult for our customers; funding we can develop elsewhere allows the District to reduce rate increases. The refinancing we completed last year reduced the District's debt by approximately $45,000 per year. We don't know the effect of USDA telling us now that their repayment needs to be done differently – they haven't given us a repayment schedule almost five months after telling us that the current one is now not acceptable to them, but it will very likely substantially reduce our annual savings on debt payments and perhaps cost us more.

Below is a timeline on the refinancing from the District's perspective:

February 2013 – District starts looking at refinancing two USDA bonds – 92 series, $8m initially, $5.6m left (goes to 2031), 2003 series, $4m initially, $3.6m left (goes to 2042). 29 years of bonds in total left to pay off.
April 2013 – District selects Brandis-Tallman as underwriter, Meyers-Nave as Bond Counsel. District informed by Santa Rosa USDA office that Lisa Butler of the USDA Visalia Office is the person we need to talk to about this. Lisa Butler is contacted and she confirms that she is the contact person.
June 2013 – District authorizes refinance of entire bonds, sets pricing date of June 19.

Bond market goes crazy on June 19, pricing called off, refinance of entire series not possible at that time.
July 2013 – Bond market does not recover and full refinancing with a public offer is not possible, underwriter goes for private placement with a Cap One Bank – refinance 20 years of bonds, leaving $1.6m left of 2003 series of USDA bonds. Payment for USDA bonds is interest only for first 20 years; principal and interest for last nine – following the schedule of existing bonds. One of the questions with the shortened refinancing was whether USDA was ok with it (see below for USDA response).
August 2013 – District Board approves partial refunding at August 1, 2013 Board meeting.

Mid August, Lisa Butler of USDA Visalia office approves final numbers of refinancing
Text of USDA email approval:
From: Butler, Lisa - RD, Visalia, CA [mailto:Lisa.Butler@ca.usda.gov]
Sent: Wednesday, August 14, 2013 10:19 AM
To: Marge McWilliams
Cc: rbrandis@brandistallman.com
Subject: RE: Sweetwater Springs Water District: USDA payaoff amount - partial redemption

USDA is in agreement to allow prepayment of principal installment so 9/12013 through 9/1/2033 in the amount of $,1994,000.00 on the loan 91-02 (2003). There would still be interest payments due on this loan 91-02 (2003) due on September 1 and March 1 for the outstanding installments during this period. Also the borrower is still required to follow USDA servicing requirement in submitting annual audits; budgets; site visits; compliance reviews and other servicing requirements.

Lisa M. Butler
Area Specialist | Visalia Office
Rural Development
United States Department of Agriculture
3530 W. Orchard Ct.

Visalia, CA 93277
Phone: 559.734.8732 ext. 103 | Fax: 559.732.3481
lisa.butler@ca.usda.gov
www.rurdev.usda.gov | "Committed to the future of rural communities"

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From: Marge McWilliams [mailto:mmcwilliams@brandistallman.com]
Sent: Tuesday, August 13, 2013 3:47 PM
To: Butler, Lisa - RD, Visalia, CA
Cc: rbrandis@brandistallman.com
Subject: FW: Sweetwater Springs Water District: USDA payaoff amount - partial redemption

Lisa: Lender's counsel requested us to provide payoff letters for your loans. We provided the letters you sent for the 2 loans and explained that you could not provide a prorated payoff for payment of principal only through 9/1/33 and therefore we calculated the payoff and it was confirmed by the Verification Agent. He replied the following:

"Did USDA say why they would not provide a prorated payoff letter? They will accept a partial payoff structured as this one is, won't they?"

Can you help with his questions. Thanks.

Marge McWilliams
BRANDIS TALLMAN LLC
22 Battery Street, Suite 500
San Francisco, CA 94111
415.912.5630
415.912.5636 (fax)

(end of email thread)

Refi closes on or about August 15, 2013
On or about August 21, USDA takes first payment under new structure

March 3, 2014 – USDA informs private placement agent – Brandis-Tallman – that USDA is not able to process refinanced bonds. We still do not have a resolution of this despite months of back and forth. USDA has not been able to tell us what they think we owe them. We don't think we owe them anything beyond what was agreed to in August 2013.
District understands that the problem is that USDA financial reporting system does not allow interest only payments. We have offered a $1,000 annual principal payment and have received no official response to that offer although we were recently (last week) told that the USDA payment amount would be forthcoming soon – apparently they have not accepted the $1,000 principal proposal.

USDA claims partial refinancing contrary to USDA regs but is unable to clearly show this. USDA claims that District did not get prior consent, but there is clear evidence that a USDA representative (Lisa Butler from the USDA Visalia Office) did approve the District action (multiple email and verbal communications).

District entered into a contract with Cap One Bank to refinance the first 20 years of the USDA bonds on the assurance from USDA that this was ok. To have USDA change their mind six months later is not ok. To not even know how much USDA is thinking re annual payments 5 months after bringing up the issue is also not ok. District is making payments on the remainder of the USDA bonds and the Cap One bond. The USDA amount (still unknown) was not included in the District budget but will likely substantially affect the savings on annual debt payments that the refinancing accomplished.